

REMARKS

Claims 26, 39, 41, 42, 45 and 46 have been amended. The claims before the Examiner remain claims 26, 28 to 35, 37 to 39, and 41 to 48.

The phrase "as a bifunctional monomer" has been stricken from claims 26, 42, 45, and 46. (Additional, minor, self-evident changes have been made in the claims as well.) The striking of the phrase "as a bifunctional monomer" overcomes the rejection of claims 26, 28 to 35, 37 to 39 and 45 to 48 under the first paragraph of 35 USC 112. The change was done in a sincere attempt to advance prosecution. Applicant points out, however, that the phrase was merely intended to identify allyl methacrylate as a bifunctional monomer (which it certainly is because it has two functional units) and was not intended to indicate that each of the four recited monomers was a bifunctional monomer, as the Examiner apparently believes; see the sentence bridging pages 2 and 3 of the Final Rejection as well as the last sentence of the first full paragraph on page 2 of the Advisory Action mailed April 27, 2005. The recited monomers in claims such as claim 26 are specifically indicated in the specification at page 3, fifth paragraph, and are used in gels A to C, shown on page 9 of the specification; see also the fourth full paragraph on page 3 of the specification.

The rejection of claims 26 to 35 and 37 to 39 under 35 USC 103 as unpatentable over Midha et al. '015 in view of Gebhard et al. '397 is respectfully traversed.

The instant invention is directed to a particular type of cosmetic composition and method of styling and fixing the hair using such a composition when the composition contains, as a fixing, film-forming polymer, in general terms, a branched block copolymer with hydrophobic blocks onto which more hydrophilic blocs are attached via bifunctional units. This type of polymer is shown and discussed in detail in PCT published patent application WO 00/40628, of record, and referred to in the third full paragraph on page 3 of the specification. Midha et al. '015, in contrast, is directed to a particular method of making graft polymers which may be either hydrophobic or hydrophilic by a particular technique described therein. The reference, with respect, does not teach or suggest the formation of branched block copolymers wherein the polymer has a structure comprising hydrophobic blocks onto which more hydrophilic blocks are attached via bifunctional units. As to the more detailed claims, such as claim 26, the Examiner acknowledges in the third full paragraph on page 4 of the Final Rejection that the primary

reference does not teach allyl methacrylate. While Gebhard et al. '397 describes a polymer that can contain allyl methacrylate, it is clear from a reading of the reference that the polymer produced therein is a latex polymer having a particular particle size, and there is no teaching or suggestion in this reference of forming branched block copolymers having hydrophobic blocks onto which more hydrophilic blocks are attached via bifunctional units as required in the present claims. The claimed subject matter is not taught or suggested from a joint consideration of the reference.

The advantages of the present invention are discussed and shown in the specification. It is explained in the paragraph bridging pages 1 and 2 that using branched block copolymers in hairstyling gels was disadvantageous because considerable fluidification resulted. The present invention is directed to a discovery of a particular cosmetic composition containing branched block copolymers that do not have fluidification problems. In addition to the branched block copolymers recited in the claims, the composition contains at least one thickening agent based on (meth)acrylic polymers and at least one non-cellulosic thickening polymer functioning as a co-thickening agent. The working and comparative examples on page 9 of the specification clearly show the improved viscosity when using a composition in accordance with the present invention; compare gel A with gels B and C. Each gel contains the same amounts of fixing polymer. The quantities of other additives are controlled to give a proper comparison. Thus, the viscosity values are determined by the nature of the components rather than variation in amounts. Thus, the comments at page 5, lines 15 to 20 of the Office Action do not apply in this case. The advantages provided by the present invention are not taught or suggested from a consideration of the references, and the rejection should be withdrawn.

The rejection of claims 41 to 44 under 35 USC 103 as unpatentable over Midha et al. '015 in view of monograph 4486 from the 11<sup>th</sup> Edition of the Merck Index is also respectfully traversed. The secondary reference is cited to show that it is known to use guar gum as a thickening agent. The reference, however, does not teach or suggest overcoming the fluidification problem caused by compositions containing branched block copolymers of the type recited in the claims. Claims 41 to 44 are likewise patentable.

Lastly, applicant respectfully traverses the rejection of claims 45 to 48 under 35 USC 103 as unpatentable over Midha et al. '015 in view of monograph 4486 from the 11<sup>th</sup> Edition of the

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Merck Index and Gebhard et al. '397. The references have all been discussed above in addressing the rejections of other claims. The references in combination do not teach or suggest the more detailed subject matter of claims 45 to 48, and the rejection should be withdrawn as well.

The Examiner is requested to telephone the undersigned if additional changes are required in the case prior to allowance.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Charles A. Wendel', is written over the printed name and firm name.

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